

(c) Funding rules

Notwithstanding any other provision of this subchapter, if the amount appropriated under subsection (a) for a fiscal year is greater than the amount appropriated under such subsection for fiscal year 2011 by more than \$10,000,000, then an amount of not less than 30 percent but not more than 50 percent of the increase in appropriated funds shall be available, from the funds appropriated under such subsection for the fiscal year, to enter into arrangements under section 9173 of this title to carry out the State assessments described in section 9173(a)(4) of this title and to assist States in the implementation of such plans.

(Pub. L. 94-462, title II, § 275, formerly § 276, as added Pub. L. 104-208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-306; renumbered § 275 and amended Pub. L. 108-81, title III, § 305, Sept. 25, 2003, 117 Stat. 1002; Pub. L. 111-340, title III, § 304, Dec. 22, 2010, 124 Stat. 3604.)

PRIOR PROVISIONS

A prior section 275 of Pub. L. 94-462 was classified to section 9175 of this title, prior to repeal by Pub. L. 108-81.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-340, § 304(1), added subsec. (a) and struck out heading and text of former subsec. (a). Prior to amendment, text read as follows: “For the purpose of carrying out this subchapter, there are authorized to be appropriated to the Director \$38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.”

Subsec. (b). Pub. L. 111-340, § 304(2), (3), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Prior to amendment, text of former subsec. (b) read as follows: “Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subchapter.”

Subsec. (c). Pub. L. 111-340, § 304(4), added subsec. (c). Former subsec. (c) redesignated (b).

2003—Subsec. (a). Pub. L. 108-81, § 305(1), substituted “\$38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.” for “\$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.”

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-81 effective Oct. 1, 2003, see section 506 of Pub. L. 108-81, set out as a note under section 9101 of this title.

CHAPTER 73—ADULT EDUCATION AND LITERACY**SUBCHAPTER I—ADULT EDUCATION AND FAMILY LITERACY**

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SUBCHAPTER I—ADULT EDUCATION AND FAMILY LITERACY**§ 9201. Purpose**

It is the purpose of this subchapter to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy services, in order to—

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;

(2) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; and

(3) assist adults in the completion of a secondary school education.

(Pub. L. 105-220, title II, § 202, Aug. 7, 1998, 112 Stat. 1059.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, known as the Adult Education and Family Literacy Act. For complete classification of title II to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 105-220, title V, § 507, Aug. 7, 1998, 112 Stat. 1247, provided that: “Except as otherwise provided in this Act [see Tables for classification], this Act and the amendments made by this Act, shall take effect on the date of the enactment of this Act [Aug. 7, 1998].”

SHORT TITLE

Pub. L. 105-220, § 1(a), Aug. 7, 1998, 112 Stat. 936, provided that: “This Act [see Tables for classification] may be cited as the ‘Workforce Investment Act of 1998’.”

Pub. L. 105-220, title II, § 201, Aug. 7, 1998, 112 Stat. 1059, provided that: “This title [enacting this subchapter, amending sections 6362, 6365, 6366, 6813, and 7881 of this title and section 3013 of Title 42, The Public Health and Welfare, and repealing sections 1201 to 1213d of this title and provisions set out as notes under sections 1201, 1213c, 2963, and 2966 of this title] may be cited as the ‘Adult Education and Family Literacy Act’.”

EX. ORD. NO. 13445. STRENGTHENING ADULT EDUCATION

Ex. Ord. No. 13445, Sept. 27, 2007, 72 F.R. 56165, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the United States to use existing Federal programs that serve adults, including new Americans, to strengthen literacy skills, improve opportunities for postsecondary education and employment, and facilitate participation in American life.

SEC. 2. Definitions. As used in this order:

(a) “agency” means an executive agency as defined in section 105 of title 5, United States Code, other than the Government Accountability Office; and

(b) “adult education” means teaching or instruction below the postsecondary level, for individuals who are 16 years of age or older, designed to provide:

(i) mastery of basic education skills needed to function effectively in society;

(ii) a secondary school diploma or its equivalent; or

(iii) the ability to speak, read, or write the English language.

SEC. 3. Establishment of Interagency Adult Education Working Group. The Secretary of Education shall establish within the Department of Education for administrative purposes only, an Interagency Adult Education Working Group (Working Group), consistent with this order.

SEC. 4. Membership and Operation of the Working Group.

(a) The Working Group shall consist exclusively of:

(i) the Secretary of Education, who shall serve as Chair;

(ii) the Secretary of the Treasury, the Attorney General, and the Secretaries of the Interior, Labor, Health and Human Services, Housing and Urban Development, and Veterans Affairs; and

(iii) other officers or full-time or permanent part-time employees of the United States, as determined by the Chair, with the concurrence of the head of the agency concerned.

(b) The Chair, or the Chair’s designee under subsection (c) of this section, in implementing section 5 of this order, shall convene and preside at the meetings of the Working Group, determine its agenda, direct its work, and establish and direct subgroups of the Working Group, as appropriate to deal with particular subject matters, that shall consist exclusively of members of the Working Group or their designees under subsection (c) of this section.

(c) A member of the Working Group may designate, to perform the Working Group or Working Group subgroup functions of the member, any person who is a part of the member’s agency and who is either an officer of the United States appointed by the President or a member of the Senior Executive Service.

SEC. 5. Functions of the Working Group. Consistent with the policy set forth in section 1 of this order, the Working Group shall:

(a) identify Federal programs that:

(i) focus primarily on improving the basic education skills of adults;

(ii) have the goal of transitioning adults from basic literacy to postsecondary education, training, or employment; or

(iii) constitute programs of adult education;

(b) as appropriate, review the programs identified under subsection (a) of this section and submit to the heads of the agencies administering those programs recommendations to:

(i) promote the transition of adults from such programs to postsecondary education, training, or employment;

(ii) increase the effectiveness, efficiency, and availability of such programs;

(iii) minimize unnecessary duplication among such programs;

(iv) measure and evaluate the performance of such programs; and

(v) undertake and disseminate the results of research related to such programs;

(c) identify gaps in the research about effective ways to teach adult education for postsecondary readiness, recommend areas for further research to improve adult education programs and services, and identify promising practices in disseminating valid existing and future research findings; and

(d) obtain information and advice as appropriate, in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation, concerning adult education from:

(i) State, local, territorial, and tribal officials; and

(ii) representatives of entities or other individuals;

(e) at the request of the head of an agency, unless the Chair declines the request, promptly review and provide advice on a proposed action by that agency relating to adult education; and

(f) report to the President, through the Assistant to the President for Domestic Policy, on its work, and on the implementation of any recommendations arising from its work, at such times and in such formats as the Chair may specify, with the first such report to be submitted no later than 9 months after the date of this order.

SEC. 6. Administration of the Working Group. (a) To the extent permitted by law, the Department of Education shall provide the funding and administrative support the Working Group needs, as determined by the Chair, to implement this order.

(b) The heads of agencies shall provide, as appropriate, such assistance and information as the Chair may request to implement this order.

SEC. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 9202. Definitions

In this subchapter:

(1) Adult education

The term “adult education” means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age;

(B) who are not enrolled or required to be enrolled in secondary school under State law; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

(iii) are unable to speak, read, or write the English language.

(2) Adult education and literacy activities

The term “adult education and literacy activities” means activities described in section 9241(b) of this title.

(3) Educational service agency

The term “educational service agency” means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and to provide the service or program to a local educational agency.

(4) Eligible agency

The term “eligible agency” means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(5) Eligible provider

The term “eligible provider” means—

- (A) a local educational agency;
- (B) a community-based organization of demonstrated effectiveness;
- (C) a volunteer literacy organization of demonstrated effectiveness;
- (D) an institution of higher education;
- (E) a public or private nonprofit agency;
- (F) a library;
- (G) a public housing authority;
- (H) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide literacy services to adults and families; and
- (I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

(6) English literacy program

The term “English literacy program” means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(7) Family literacy services

The term “family literacy services” means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

- (A) Interactive literacy activities between parents and their children.
- (B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.
- (C) Parent literacy training that leads to economic self-sufficiency.
- (D) An age-appropriate education to prepare children for success in school and life experiences.

(8) Governor

The term “Governor” means the chief executive officer of a State or outlying area.

(9) Individual with a disability**(A) In general**

The term “individual with a disability” means an individual with any disability (as defined in section 12102 of title 42).

(B) Individuals with disabilities

The term “individuals with disabilities” means more than one individual with a disability.

(10) Individual of limited English proficiency

The term “individual of limited English proficiency” means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

- (A) whose native language is a language other than English; or
- (B) who lives in a family or community environment where a language other than English is the dominant language.

(11) Institution of higher education

The term “institution of higher education” has the meaning given the term in section 1001 of this title.

(12) Literacy

The term “literacy” means an individual’s ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

(13) Local educational agency

The term “local educational agency” has the meaning given the term in section 7801 of this title.

(14) Outlying area

The term “outlying area” has the meaning given the term in section 2801 of title 29.

(15) Postsecondary educational institution

The term “postsecondary educational institution” means—

- (A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor’s degree;
- (B) a tribally controlled community college; or
- (C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(16) Secretary

The term “Secretary” means the Secretary of Education.

(17) State

The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(18) Workplace literacy services

The term “workplace literacy services” means literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

(Pub. L. 105-220, title II, § 203, Aug. 7, 1998, 112 Stat. 1060; Pub. L. 105-244, title I, § 102(d)(2), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 404(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416; Pub. L. 107-110, title X, § 1076(s), Jan. 8, 2002, 115 Stat. 2092.)

AMENDMENTS

2002—Par. (13). Pub. L. 107-110 substituted “section 7801” for “section 8801”.

1998—Pub. L. 105-277 made technical amendment to reference in original act which appears in text as reference to this subchapter.

Par. (11). Pub. L. 105-244 substituted “section 1001” for “section 1141”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 9203. Home schools

Nothing in this subchapter shall be construed to affect home schools, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education.

(Pub. L. 105-220, title II, §204, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105-277, div. A, §101(f) [title VIII, §404(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416.)

AMENDMENTS

1998—Pub. L. 105-277 made technical amendment to reference in original act which appears in text as reference to this subchapter.

§ 9204. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 105-220, title II, §205, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105-277, div. A, §101(f) [title VIII, §404(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416.)

AMENDMENTS

1998—Pub. L. 105-277 made technical amendment to reference in original act which appears in text as reference to this subchapter.

PART A—ADULT EDUCATION AND LITERACY PROGRAMS

CODIFICATION

This part was, in the original, designated subtitle A of title II of Pub. L. 105-220 and has been redesignated part A of this subchapter for purposes of codification. This subchapter does not contain a part B, because subtitle B (§251) of title II of Pub. L. 105-220 repealed numerous sections of the Code and has been executed to those sections, see Tables.

SUBPART 1—FEDERAL PROVISIONS

§ 9211. Reservation of funds; grants to eligible agencies; allotments

(a) Reservation of funds

From the sum appropriated under section 9204 of this title for a fiscal year, the Secretary—

- (1) shall reserve 1.5 percent to carry out section 9252 of this title, except that the amount so reserved shall not exceed \$8,000,000;
- (2) shall reserve 1.5 percent to carry out section 9253 of this title, except that the amount so reserved shall not exceed \$8,000,000; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 9273 of this title.

(b) Grants to eligible agencies

(1) In general

From the sum appropriated under section 9204 of this title and not reserved under subsection (a) of this section for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 9224 of this title in an amount equal to the sum of the initial allotment under subsection (c)(1) of this section and the additional allotment under subsection (c)(2) of this section for the eligible agency for the fiscal year, subject to subsections (f) and (g) of this section, to enable the eligible agency to carry out the activities assisted under this part.

(2) Purpose of grants

The Secretary may award a grant under paragraph (1) only if the eligible entity involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this part.

(c) Allotments

(1) Initial allotments

From the sum appropriated under section 9204 of this title and not reserved under subsection (a) of this section for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 9224(f) of this title—

- (A) \$100,000, in the case of an eligible agency serving an outlying area; and
- (B) \$250,000, in the case of any other eligible agency.

(2) Additional allotments

From the sum appropriated under section 9204 of this title, not reserved under subsection (a) of this section, and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) Qualifying adult

For the purpose of subsection (c)(2) of this section, the term “qualifying adult” means an adult who—

- (1) is at least 16 years of age;
- (2) is beyond the age of compulsory school attendance under the law of the State or outlying area;
- (3) does not have a secondary school diploma or its recognized equivalent; and
- (4) is not enrolled in secondary school.

(e) Special rule

(1) In general

From amounts made available under subsection (c) of this section for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the

Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this part that the Secretary determines are not inconsistent with this subsection.

(2) Award basis

The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) Termination of eligibility

Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2001.

(4) Administrative costs

The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) Hold-harmless

(1) In general

Notwithstanding subsection (c) of this section—

(A) for fiscal year 1999, no eligible agency shall receive an allotment under this part that is less than 90 percent of the payments made to the State or outlying area of the eligible agency for fiscal year 1998 for programs for which funds were authorized to be appropriated under section 313 of the Adult Education Act (as such Act was in effect on the day before August 7, 1998); and

(B) for fiscal year 2000 and each succeeding fiscal year, no eligible agency shall receive an allotment under this part that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this part.

(2) Ratable reduction

If for any fiscal year the amount available for allotment under this part is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

(g) Reallotment

The portion of any eligible agency's allotment under this part for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this part, shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this part for such year.

(Pub. L. 105-220, title II, §211, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105-277, div. A, §101(f) [title

VIII, §404(b)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416.)

REFERENCES IN TEXT

Section 313 of the Adult Education Act (as such Act was in effect on the day before August 7, 1998), referred to in subsec. (f)(1)(A), means section 313 of Pub. L. 89-750, which was classified to section 1201b of this title, prior to repeal by Pub. L. 105-220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079.

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105-277 struck out “, but less than 61 years of age” after “16 years of age”.

§ 9212. Performance accountability system

(a) Purpose

The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of eligible agencies in achieving continuous improvement of adult education and literacy activities funded under this part, in order to optimize the return on investment of Federal funds in adult education and literacy activities.

(b) Eligible agency performance measures

(1) In general

For each eligible agency, the eligible agency performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A); and

(ii) additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

(B) an eligible agency adjusted level of performance for each indicator described in subparagraph (A).

(2) Indicators of performance

(A) Core indicators of performance

The core indicators of performance shall include the following:

(i) Demonstrated improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

(ii) Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career advancement.

(iii) Receipt of a secondary school diploma or its recognized equivalent.

(B) Additional indicators

An eligible agency may identify in the State plan additional indicators for adult education and literacy activities authorized under this part.

(3) Levels of performance

(A) Eligible agency adjusted levels of performance for core indicators

(i) In general

For each eligible agency submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph

(2)(A) for adult education and literacy activities authorized under this part. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the eligible agency toward continuously improving in performance.

(ii) Identification in State plan

Each eligible agency shall identify, in the State plan submitted under section 9224 of this title, expected levels of performance for each of the core indicators of performance for the first 3 program years covered by the State plan.

(iii) Agreement on eligible agency adjusted levels of performance for first 3 years

In order to ensure an optimal return on the investment of Federal funds in adult education and literacy activities authorized under this part, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) Factors

The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels involved compare with the eligible agency adjusted levels of performance established for other eligible agencies, taking into account factors including the characteristics of participants when the participants entered the program, and the services or instruction to be provided; and

(II) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such eligible agency and ensure optimal return on the investment of Federal funds.

(v) Agreement on eligible agency adjusted levels of performance for 4th and 5th years

Prior to the fourth program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

(vi) Revisions

If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the eligible agency may request that the eligible agency adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in section 2871(i)(1) of title 29, shall issue objective criteria and methods for making such revisions.

(B) Levels of performance for additional indicators

The eligible agency may identify, in the State plan, eligible agency levels of performance for each of the additional indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this part.

(c) Report

(1) In general

Each eligible agency that receives a grant under section 9211(b) of this title shall annually prepare and submit to the Secretary a report on the progress of the eligible agency in achieving eligible agency performance measures, including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance.

(2) Information dissemination

The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress with copies of such reports.

(Pub. L. 105-220, title II, §212, Aug. 7, 1998, 112 Stat. 1064; Pub. L. 105-277, div. A, §101(f) [title VIII, §404(c)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416.)

AMENDMENTS

1998—Subsec. (b)(3)(A)(vi). Pub. L. 105-277 substituted “2871(i)(1) of title 29” for “2871(j) of title 29”.

SUBPART 2—STATE PROVISIONS

§ 9221. State administration

Each eligible agency shall be responsible for the State or outlying area administration of activities under this part, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this part; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(Pub. L. 105-220, title II, §221, Aug. 7, 1998, 112 Stat. 1066.)

§ 9222. State distribution of funds; matching requirement

(a) State distribution of funds

Each eligible agency receiving a grant under this part for a fiscal year—

(1) shall use not less than 82.5 percent of the grant funds to award grants and contracts under section 9241 of this title and to carry out section 9225 of this title, of which not more than 10 percent of the 82.5 percent shall be available to carry out section 9225 of this title;

(2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 9223 of this title; and

(3) shall use not more than 5 percent of the grant funds, or \$65,000, whichever is greater, for the administrative expenses of the eligible agency.

(b) Matching requirement

(1) In general

In order to receive a grant from the Secretary under section 9211(b) of this title each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education and literacy activities for which the grant is awarded, a non-Federal contribution in an amount equal to—

(A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education and literacy activities in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education and literacy activities in the State.

(2) Non-Federal contribution

An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this part.

(Pub. L. 105-220, title II, §222, Aug. 7, 1998, 112 Stat. 1066.)

§ 9223. State leadership activities

(a) In general

Each eligible agency shall use funds made available under section 9222(a)(2) of this title for one or more of the following adult education and literacy activities:

(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 9241(b) of this title, including instruction incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension, and instruction provided by volunteers or by personnel of a State or outlying area.

(2) The provision of technical assistance to eligible providers of adult education and literacy activities.

(3) The provision of technology assistance, including staff training, to eligible providers of adult education and literacy activities to enable the eligible providers to improve the quality of such activities.

(4) The support of State or regional networks of literacy resource centers.

(5) The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities.

(6) Incentives for—

(A) program coordination and integration; and

(B) performance awards.

(7) Developing and disseminating curricula, including curricula incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension.

(8) Other activities of statewide significance that promote the purpose of this subchapter.

(9) Coordination with existing support services, such as transportation, child care, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, to adults enrolled in such activities.

(10) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(11) Linkages with postsecondary educational institutions.

(b) Collaboration

In carrying out this section, eligible agencies shall collaborate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a) of this section.

(c) State-imposed requirements

Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this part that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as being State- or outlying area-imposed.

(Pub. L. 105-220, title II, §223, Aug. 7, 1998, 112 Stat. 1067.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(8), was in the original “this title”, meaning title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, known as the Adult Education and Family Literacy Act, which enacted this subchapter, amended sections 6362, 6365, 6366, 6813, and 7881 of this title, and section 3013 of Title 42, The Public Health and Welfare, and repealed sections 1201 to 1213d of this title and provisions set out as notes under sections 1201, 1213c, 2963, and 2966 of this title. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 9224. State plan

(a) 5-year plans

(1) In general

Each eligible agency desiring a grant under this part for any fiscal year shall submit to, or

have on file with, the Secretary a 5-year State plan.

(2) Comprehensive plan or application

The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) Plan contents

In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State or outlying area for adult education and literacy activities, including individuals most in need or hardest to serve;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this part;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 9212 of this title;

(4) a description of the performance measures described in section 9212 of this title and how such performance measures will ensure the improvement of adult education and literacy activities in the State or outlying area;

(5) an assurance that the eligible agency will award not less than one grant under this part to an eligible provider who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this part prior to using funds for adult education and literacy activities provided under this part for support services;

(6) an assurance that the funds received under this part will not be expended for any purpose other than for activities under this part;

(7) a description of how the eligible agency will fund local activities in accordance with the considerations described in section 9241(e) of this title;

(8) an assurance that the eligible agency will expend the funds under this part only in a manner consistent with fiscal requirements in section 9251 of this title;

(9) a description of the process that will be used for public participation and comment with respect to the State plan;

(10) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(11) a description of how the adult education and literacy activities that will be carried out

with any funds received under this part will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency; and

(12) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section 9241(c)(1) of this title.

(c) Plan revisions

When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions to the State plan to the Secretary.

(d) Consultation

The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State or outlying area for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) Peer review

The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

(f) Plan approval

A State plan submitted to the Secretary shall be approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the plan, that the plan is inconsistent with the specific provisions of this part.

(g) Transition

The provisions of this section shall be subject to section 9276(b) of this title.

(Pub. L. 105-220, title II, § 224, Aug. 7, 1998, 112 Stat. 1068; Pub. L. 105-332, § 4(1), Oct. 31, 1998, 112 Stat. 3126.)

AMENDMENTS

1998—Subsec. (g). Pub. L. 105-332 added subsec. (g).

§ 9225. Programs for corrections education and other institutionalized individuals

(a) Program authorized

From funds made available under section 9222(a)(1) of this title for a fiscal year, each eligible agency shall carry out corrections education and education for other institutionalized individuals.

(b) Uses of funds

The funds described in subsection (a) of this section shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the eligible agency;

(3) English literacy programs; and

(4) secondary school credit programs.

(c) Priority

Each eligible agency that is using assistance provided under this section to carry out a pro-

gram for criminal offenders in a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution within 5 years of participation in the program.

(d) Definitions

(1) Criminal offender

The term “criminal offender” means any individual who is charged with or convicted of any criminal offense.

(2) Correctional institution

The term “correctional institution” means any—

- (A) prison;
- (B) jail;
- (C) reformatory;
- (D) work farm;
- (E) detention center; or
- (F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(Pub. L. 105-220, title II, §225, Aug. 7, 1998, 112 Stat. 1069; Pub. L. 105-277, div. A, §101(f) [title VIII, §404(d)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-417.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1204 of this title prior to repeal by Pub. L. 105-220.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-277, §101(f) [title VIII, §404(d)(1)], substituted “and education” for “or education”.

Subsec. (c). Pub. L. 105-277, §101(f) [title VIII, §404(d)(2)], substituted “within” for “with” before “5 years”.

SUBPART 3—LOCAL PROVISIONS

§ 9241. Grants and contracts for eligible providers

(a) Grants and contracts

From grant funds made available under section 9211(b) of this title, each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) Required local activities

The eligible agency shall require that each eligible provider receiving a grant or contract under subsection (a) of this section use the grant or contract to establish or operate one or more programs that provide services or instruction in one or more of the following categories:

- (1) Adult education and literacy services, including workplace literacy services.
- (2) Family literacy services.
- (3) English literacy programs.

(c) Direct and equitable access; same process

Each eligible agency receiving funds under this part shall ensure that—

- (1) all eligible providers have direct and equitable access to apply for grants or contracts under this section; and

- (2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.

(d) Special rule

Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this part for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 9202(1) of this title, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services. In providing family literacy services under this part, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this part prior to using funds for adult education and literacy activities under this part for activities other than adult education activities.

(e) Considerations

In awarding grants or contracts under this section, the eligible agency shall consider—

- (1) the degree to which the eligible provider will establish measurable goals for participant outcomes;
- (2) the past effectiveness of an eligible provider in improving the literacy skills of adults and families, and, after the 1-year period beginning with the adoption of an eligible agency's performance measures under section 9212 of this title, the success of an eligible provider receiving funding under this part in meeting or exceeding such performance measures, especially with respect to those adults with the lowest levels of literacy;
- (3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;
- (4) whether or not the program—
 - (A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and
 - (B) uses instructional practices, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;
- (5) whether the activities are built on a strong foundation of research and effective educational practice;
- (6) whether the activities effectively employ advances in technology, as appropriate, including the use of computers;
- (7) whether the activities provide learning in real life contexts to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;
- (8) whether the activities are staffed by well-trained instructors, counselors, and administrators;
- (9) whether the activities coordinate with other available resources in the community, such as by establishing strong links with ele-

mentary schools and secondary schools, post-secondary educational institutions, one-stop centers, job training programs, and social service agencies;

(10) whether the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

(11) whether the activities maintain a high-quality information management system that has the capacity to report participant outcomes and to monitor program performance against the eligible agency performance measures; and

(12) whether the local communities have a demonstrated need for additional English literacy programs.

(Pub. L. 105-220, title II, § 231, Aug. 7, 1998, 112 Stat. 1070.)

§ 9242. Local application

Each eligible provider desiring a grant or contract under this part shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this part will be spent; and

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities.

(Pub. L. 105-220, title II, § 232, Aug. 7, 1998, 112 Stat. 1072.)

§ 9243. Local administrative cost limits

(a) In general

Subject to subsection (b) of this section, of the amount that is made available under this part to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and inter-agency coordination.

(b) Special rule

In cases where the cost limits described in subsection (a) of this section are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

(Pub. L. 105-220, title II, § 233, Aug. 7, 1998, 112 Stat. 1072.)

SUBPART 4—GENERAL PROVISIONS

§ 9251. Administrative provisions

(a) Supplement not supplant

Funds made available for adult education and literacy activities under this part shall supple-

ment and not supplant other State or local public funds expended for adult education and literacy activities.

(b) Maintenance of effort

(1) In general

(A) Determination

An eligible agency may receive funds under this part for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.

(B) Proportionate reduction

Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this part for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

(2) Computation

In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

(3) Decrease in Federal support

If the amount made available for adult education and literacy activities under this part for a fiscal year is less than the amount made available for adult education and literacy activities under this part for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(4) Waiver

The Secretary may waive the requirements of this subsection for 1 fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

(Pub. L. 105-220, title II, § 241, Aug. 7, 1998, 112 Stat. 1072.)

§ 9252. National Institute for Literacy**(a) Purpose**

The purpose of this section is to establish a National Institute for Literacy that—

- (1) provides national leadership regarding literacy;
- (2) coordinates literacy services and policy; and
- (3) serves as a national resource for adult education and literacy programs by—

(A) providing the best and most current information available, including the work of the Eunice Kennedy Shriver National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and

(B) supporting the creation of new ways to offer services of proven effectiveness.

(b) Establishment**(1) In general**

There is established the National Institute for Literacy (in this section referred to as the “Institute”). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the “Interagency Group”). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services the purpose of which is determined by the Interagency Group to be related to the purpose of the Institute.

(2) Offices

The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) Recommendations

The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the “Board”) established under subsection (e) of this section in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board’s recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board’s recommendations, including the reasons for not following the Board’s recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board’s recommendations.

(4) Daily operations

The daily operations of the Institute shall be administered by the Director of the Institute.

(c) Duties**(1) In general**

In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) to establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including instruction in phonemic awareness, systematic phonics, fluency, and reading comprehension, and the integration of literacy and basic skills instruction with occupational skills training;

(ii) public and private literacy and basic skills programs, and Federal, State, and local policies, affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) to coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) to coordinate the support of reliable and replicable research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and to carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies, such as the special literacy needs of individuals with learning disabilities;

(D) to collect and disseminate information on methods of advancing literacy that show great promise, including phonemic awareness, systematic phonics, fluency, and reading comprehension based on the work of the Eunice Kennedy Shriver National Institute of Child Health and Human Development;

(E) to provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) to fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services;

(ii) enhancing the capacity of State and local organizations to provide literacy services; and

(iii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

(G) to coordinate and share information with national organizations and associations that are interested in literacy and workforce investment activities;

(H) to advise Congress and Federal departments and agencies regarding the development of policy with respect to literacy and basic skills; and

(I) to undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) Grants, contracts, and cooperative agreements

The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute.

(d) Literacy leadership

(1) In general

The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) Fellowships

Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) Interns and volunteers

The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

(e) National Institute for Literacy Advisory Board

(1) Establishment

(A) In general

There shall be a National Institute for Literacy Advisory Board (in this section referred to as the "Board"), which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) Composition

The Board shall be comprised of individuals who are not otherwise officers or employees of the Federal Government and who are representative of entities such as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English literacy programs and services, social service organizations, and eligible providers receiving assistance under this part;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) representatives of employees, including representatives of labor organizations.

(2) Duties

The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; and

(C) receive reports from the Interagency Group and the Director.

(3) Federal Advisory Committee Act

Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) Appointments

(A) In general

Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

(B) Vacancies

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(5) Quorum

A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

(6) Election of officers

The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(7) Meetings

The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

(f) Gifts, bequests, and devises**(1) In general**

The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) Rules

The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out the responsibilities of the Institute or employee, or official duties, in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of the Institute's programs or any official involved in those programs.

(g) Mails

The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) Staff

The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) Applicability of certain civil service laws

The Director and staff of the Institute may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) Experts and consultants

The Institute may procure temporary and intermittent services under section 3109(b) of title 5.

(k) Report

The Institute shall submit a report biennially to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

(2) a description of how plans for the operation of the Institute for the succeeding 2 fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(l) Funding

Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

(Pub. L. 105-220, title II, §242, Aug. 7, 1998, 112 Stat. 1073; Pub. L. 110-154, §1(c)(2), Dec. 21, 2007, 121 Stat. 1827.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(3)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Titles I and VII of the Act are classified generally to subchapters I (§6301 et seq.) and VII (§7401 et seq.), respectively, of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Head Start Act, referred to in subsec. (a)(3)(A), is subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(A), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

This Act, referred to in subsec. (a)(3)(A), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (e)(3), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

Level IV of the Executive Schedule, referred to in subsec. (i), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1213c of this title prior to repeal by Pub. L. 105-220.

AMENDMENTS

2007—Subsecs. (a)(3)(A), (c)(1)(D). Pub. L. 110-154 substituted “Eunice Kennedy Shriver National Institute of Child Health and Human Development” for “National Institute of Child Health and Human Development”.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107-279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.

§ 9253. National leadership activities

The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Such activities may include the following:

(1) Technical assistance, including—

(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available; and

(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

(2) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using phonemic awareness, systematic phonics, fluency, and reading comprehension, based on the work of the Eunice Kennedy Shriver National Institute of Child Health and Human Development;

(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

(C) carrying out research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(D)(i) carrying out demonstration programs;

(ii) developing and replicating model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs; and

(iii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs;

(E) providing for the conduct of an independent evaluation and assessment of adult

education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which eligible agencies have distributed funds under section 9241 of this title to meet the needs of adults through community-based organizations;

(F) supporting efforts aimed at capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this part;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems; and

(H) other activities designed to enhance the quality of adult education and literacy activities nationwide.

(Pub. L. 105-220, title II, § 243, Aug. 7, 1998, 112 Stat. 1078; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 404(e)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-417; Pub. L. 110-154, § 1(c)(2), Dec. 21, 2007, 121 Stat. 1827.)

AMENDMENTS

2007—Par. (2)(A). Pub. L. 110-154 substituted “Eunice Kennedy Shriver National Institute of Child Health and Human Development” for “National Institute of Child Health and Human Development”.

1998—Par. (2)(B). Pub. L. 105-277 substituted “quality” for “qualify”.

SUBCHAPTER II—GENERAL PROVISIONS

§ 9271. State unified plan**(a) “Appropriate Secretary” defined**

In this section, the term “appropriate Secretary” means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b) of this section.

(b) State unified plan**(1) In general**

A State may develop and submit to the appropriate Secretaries a State unified plan for

2 or more of the activities or programs set forth in paragraph (2), except that the State may include in the plan the activities described in paragraph (2)(A) only with the prior approval of the legislature of the State. The State unified plan shall cover one or more of the activities set forth in subparagraphs (A) through (D) of paragraph (2) and may cover one or more of the activities set forth in subparagraphs (E) through (O) of paragraph (2). For purposes of this paragraph, the activities and programs described in subparagraphs (A) and (B) of paragraph (2) shall not be considered to be 2 or more activities or programs for purposes of the unified plan. Such activities or programs shall be considered to be 1 activity or program.

(2) Activities

The activities and programs referred to in paragraph (1) are as follows:

(A) career¹ and technical education programs at the secondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(B) career¹ and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(C) Activities authorized under title I [29 U.S.C. 2801 et seq.].

(D) Activities authorized under title II [20 U.S.C. 9201 et seq.].

(E) Programs authorized under section 6(d) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)).

(F) Work programs authorized under section 6(o) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)).

(G) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(H) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(I) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(J) Activities authorized under chapter 41 of title 38.

(K) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(L) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(M) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(N) Training activities carried out by the Department of Housing and Urban Development.

(O) Programs authorized under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(c) Requirements

(1) In general

The portion of a State unified plan covering an activity or program described in subsection (b) of this section shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) Additional submission not required

A State that submits a State unified plan covering an activity or program described in subsection (b) of this section that is approved under subsection (d) of this section shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) Coordination

A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) Approval by appropriate Secretaries

(1) Jurisdiction

The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) Approval

(A) In general

A portion of the State unified plan covering an activity or program described in subsection (b) of this section that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3) of this section.

(B) Special rule

In subparagraph (A), the term “criteria for approval of a State plan”, relating to activities carried out under title I [29 U.S.C. 2801 et seq.] or II [20 U.S.C. 9201 et seq.] or under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), includes a requirement for agreement be-

¹ So in original. Probably should be capitalized.

tween the State and the appropriate Secretary regarding State performance measures, including levels of performance.

(Pub. L. 105-220, title V, §501, Aug. 7, 1998, 112 Stat. 1242; Pub. L. 105-277, div. A, §101(f) [title VIII, §401(17)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-412; Pub. L. 109-270, §2(h)(7)-(9), Aug. 12, 2006, 120 Stat. 748; Pub. L. 110-234, title IV, §4002(b)(1)(B), (2)(R), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (2)(R), June 18, 2008, 122 Stat. 1664, 1857, 1858.)

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsecs. (b)(2)(A), (B) and (d)(2)(B), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

Title I, referred to in subsec. (b)(2)(C), is title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of title I to the Code, see Tables.

Title II, referred to in subsec. (b)(2)(D), is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, known as the Adult Education and Family Literacy Act, which is classified principally to subchapter I (§9201 et seq.) of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (b)(2)(G), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978. Chapter 2 of title II of the Act is classified generally to part 2 (§2271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2)(H), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(2)(I), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Social Security Act, referred to in subsec. (b)(2)(L), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Older Americans Act of 1965, referred to in subsec. (b)(2)(M), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218. Title V of the Act, known as the "Older Americans Community Services Employment Act", is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(2)(O), is subtitle B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short title note set out under section 9901 of Title 42 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-246, §4002(b)(1)(B), (2)(R), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977" in subpars. (E) and (F).

2006—Subsec. (b)(2)(A). Pub. L. 109-270, §2(h)(7)(B), substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Applied Technology Education Act".

Pub. L. 109-270, §2(h)(7)(A), which directed the substitution of "career and technical education programs at the secondary level" for "secondary vocational education programs", was executed by making the substitution for "Secondary vocational education programs" to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 109-270, §2(h)(8)(B), substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Applied Technology Education Act".

Pub. L. 109-270, §2(h)(8)(A), which directed the substitution of "career and technical education programs at the postsecondary level" for "postsecondary vocational education programs", was executed by making the substitution for "Postsecondary vocational education programs" to reflect the probable intent of Congress.

Subsec. (d)(2)(B). Pub. L. 109-270, §2(h)(9), substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Applied Technology Education Act".

1998—Subsec. (b)(1). Pub. L. 105-277 inserted at end "For purposes of this paragraph, the activities and programs described in subparagraphs (A) and (B) of paragraph (2) shall not be considered to be 2 or more activities or programs for purposes of the unified plan. Such activities or programs shall be considered to be 1 activity or program."

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(R) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

§ 9272. Definitions for indicators of performance

(a) In general

In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b) of this section, shall issue definitions for indicators of performance and levels of performance established under titles I [29 U.S.C. 2801 et seq.] and II [20 U.S.C. 9201 et seq.].

(b) Representatives

The representatives referred to in subsection (a) of this section are representatives of States (as defined in section 2801 of title 29) and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 2801 of title 29), educators, participants in activities carried out under this Act, State Directors of adult education, providers of adult education, providers of literacy services, individuals with expertise in

serving the employment and training needs of eligible youth (as defined in section 2801 of title 29), parents, and other interested parties, with expertise regarding activities authorized under this Act.

(Pub. L. 105-220, title V, § 502, Aug. 7, 1998, 112 Stat. 1244.)

REFERENCES IN TEXT

Title I, referred to in subsec. (a), is title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of title I to the Code, see Tables.

Title II, referred to in subsec. (a), is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, as amended, known as the Adult Education and Family Literacy Act, which is classified principally to subchapter I (§ 9201 et seq.) of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

This Act, referred to in subsec. (b), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 9273. Incentive grants

(a) In general

Beginning on July 1, 2000, the Secretary shall award a grant to each State that exceeds the State adjusted levels of performance for title I [29 U.S.C. 2801 et seq.], the adjusted levels of performance for title II [20 U.S.C. 9201 et seq.], and the levels of performance for programs under Public Law 105-332 (20 U.S.C. 2301 et seq.),¹ for the purpose of carrying out an innovative program consistent with the requirements of any one or more of the programs within title I, title II, or such Public Law, respectively.

(b) Application

(1) In general

The Secretary may provide a grant to a State under subsection (a) of this section only if the State submits an application to the Secretary for the grant that meets the requirements of paragraph (2).

(2) Requirements

The Secretary may review an application described in paragraph (1) only to ensure that the application contains the following assurances:

(A) The legislature of the State was consulted with respect to the development of the application.

(B) The application was approved by the Governor, the eligible agency (as defined in section 9202 of this title), and the State agency responsible for programs established under Public Law 105-332 (20 U.S.C. 2301 et seq.).¹

(C) The State and the eligible agency, as appropriate, exceeded the State adjusted levels of performance for title I [29 U.S.C. 2801 et seq.], the expected levels of performance for title II [20 U.S.C. 9201 et seq.], and the levels of performance for programs under Public Law 105-332 (20 U.S.C. 2301 et seq.).¹

¹ See References in Text note below.

(c) Amount

(1) Minimum and maximum grant amounts

Subject to paragraph (2), a grant provided to a State under subsection (a) of this section shall be awarded in an amount that is not less than \$750,000 and not more than \$3,000,000.

(2) Proportionate reduction

If the amount available for grants under this section for a fiscal year is insufficient to award a grant to each State or eligible agency that is eligible for a grant, the Secretary shall reduce the minimum and maximum grant amount by a uniform percentage.

(d) Expected levels of performance as consideration

Notwithstanding any other provision of this section, for fiscal year 2000, the Secretary shall not consider the expected levels of performance under Public Law 105-332 (20 U.S.C. 2301 et seq.)¹ and shall not award a grant under subsection (a) of this section based on the levels of performance for that Act.

(Pub. L. 105-220, title V, § 503, Aug. 7, 1998, 112 Stat. 1244; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 404(f)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-417; Pub. L. 106-246, div. B, title II, § 2403(a)(1), July 13, 2000, 114 Stat. 555.)

REFERENCES IN TEXT

Title I, referred to in subsecs. (a) and (b)(2)(C), is title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of title I to the Code, see Tables.

Title II, referred to in subsecs. (a) and (b)(2)(C), is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, as amended, known as the Adult Education and Family Literacy Act, which is classified principally to subchapter I (§ 9201 et seq.) of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

Public Law 105-332 (20 U.S.C. 2301 et seq.), referred to in subsecs. (a), (b)(2)(B), (C), and (d), is Pub. L. 105-332, Oct. 31, 1998, 112 Stat. 3076, known as the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 2301 of this title and Tables.

AMENDMENTS

2000—Subsecs. (a), (b)(2)(B), (C). Pub. L. 106-246, § 2403(a)(1)(A), substituted “under Public Law 105-332 (20 U.S.C. 2301 et seq.)” for “under Public Law 88-210 (as amended; 20 U.S.C. 2301 et seq.)”.

Subsec. (d). Pub. L. 106-246, § 2403(a)(1)(B), added subsec. (d).

1998—Subsec. (a). Pub. L. 105-277 substituted “adjusted” for “expected” before “levels of performance for title II”.

§ 9274. Privacy

(a) Effect on privacy protections

Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 1232g of this title.

(b) Prohibition on development of national database

(1) In general

Nothing in this Act shall be construed to permit the development of a national database

of personally identifiable information on individuals receiving services under title I of this Act [29 U.S.C. 2801 et seq.].

(2) Limitation

Nothing in paragraph (1) shall be construed to prevent the proper administration of national programs under subtitles C and D of title I of this Act [29 U.S.C. 2881 et seq., 2911 et seq.] or to carry out program management activities consistent with title I of this Act [29 U.S.C. 2801 et seq.].

(Pub. L. 105–220, title V, §504, Aug. 7, 1998, 112 Stat. 1245.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. Subtitles C and D of title I of the Act are classified generally to subchapters III (§2881 et seq.) and IV (§2911 et seq.), respectively, of chapter 30 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 9275. Buy-American requirements

(a) Compliance with chapter 83 of title 41

None of the funds made available under title I [29 U.S.C. 2801 et seq.], II [20 U.S.C. 9201 et seq.], or III or this subchapter may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with chapter 83 of title 41.

(b) Sense of the Congress; requirement regarding notice

(1) Purchase of American-made equipment and products

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under title I [29 U.S.C. 2801 et seq.], II [20 U.S.C. 9201 et seq.], or III or this subchapter, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) Notice to recipients of assistance

In providing financial assistance using funds made available under title I [29 U.S.C. 2801 et seq.], II [20 U.S.C. 9201 et seq.], or III or this subchapter, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) Prohibition of contracts with persons falsely labeling products as made in America

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this subtitle,¹ pursuant to the

debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections are in effect on August 7, 1998, or pursuant to any successor regulations.

(Pub. L. 105–220, title V, §505, Aug. 7, 1998, 112 Stat. 1245; Pub. L. 105–277, div. A, §101(f) [title VIII, §401(18)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

REFERENCES IN TEXT

Titles I, II, and III, referred to in subsecs. (a) and (b), are titles I, II, and III of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 939, 1059, 1080. Title I is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. Title II, known as the Adult Education and Family Literacy Act, is classified principally to subchapter I (§9201 et seq.) of this chapter. Title III enacted section 491–2 of this title and section 4110B of Title 38, Veterans’ Benefits, amended sections 49a to 49c, 49d, 49e to 49g, 49j, 49k, 633a, and 791 of this title, section 7103 of Title 5, Government Organization and Employees, section 2311 of Title 19, Customs Duties, and sections 655a, 2000e–16, and 3056 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 49a, 633a, and 2701 of this title. For complete classification of titles I, II, and III to the Code, see Short Title note set out under section 9201 of this title and Tables.

CODIFICATION

In subsec. (a) heading, “chapter 83 of title 41” substituted for “Buy American Act” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a), “chapter 83 of title 41” substituted for “the Buy American Act (41 U.S.C. 10a et seq.)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §101(f) [title VIII, §401(18)(A)], substituted “under title I, II, or III or this subchapter” for “in this Act”.

Subsec. (b)(1), (2). Pub. L. 105–277, §101(f) [title VIII, §401(18)(B)], substituted “under title I, II, or III or this subchapter” for “under this Act”.

§ 9276. Transition provisions

(a) Workforce investment systems

The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to the workforce investment systems established under title I of this Act [29 U.S.C. 2801 et seq.]. Such actions shall include the provision of guidance relating to the designation of State workforce investment boards, local workforce investment areas, and local workforce investment boards described in such title.

(b) Adult education and literacy programs

(1) In general

The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the transition from any authority under the Adult Education Act to any authority under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.] (as added by title II of this Act).

(2) Limitation

The authority to take actions under paragraph (1) shall apply until July 1, 2000.

¹ So in original. This section is not contained in a subtitle.

(c) Regulations

(1) Interim final regulations

Not later than 180 days after August 7, 1998, the Secretary of Labor shall develop and publish in the Federal Register interim final regulations relating to the transition to, and implementation of, this Act.

(2) Final regulations

Not later than December 31, 1999, the Secretary shall develop and publish in the Federal Register final regulations relating to the transition to, and implementation of, this Act.

(d) Expenditure of funds during transition

(1) In general

Subject to paragraph (2) and in accordance with regulations developed under subsection (c) of this section, States, grant recipients, administrative entities, and other recipients of financial assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or under this Act may expend funds received under the Job Training Partnership Act or under this Act, prior to July 1, 2000, in order to plan and implement programs and activities authorized under this Act.

(2) Additional requirements

Not to exceed 2 percent of any allotment to any State from amounts appropriated under the Job Training Partnership Act or under this Act for fiscal year 1998 or 1999 may be made available to carry out planning authorized under paragraph (1) and not less than 50 percent of any such amount used to carry out planning authorized under paragraph (1) shall be made available to local entities for the planning purposes described in such paragraph.

(e) Reorganization

Not later than 1 year after August 7, 1998, the Secretary of Labor shall reorganize and align functions within the Department of Labor and within the Employment and Training Administration in order to carry out the duties and responsibilities required by this Act (and related laws) in an effective and efficient manner.

(Pub. L. 105-220, title V, §506, Aug. 7, 1998, 112 Stat. 1246; Pub. L. 105-277, div. A, §101(f) [title VIII, §401(19)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-412; Pub. L. 105-332, §4(2), Oct. 31, 1998, 112 Stat. 3126.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a) and (d), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor, prior to repeal by Pub. L. 105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsecs. (a) and (c) to (e), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Adult Education Act, referred to in subsec. (b)(1), is title III of Pub. L. 89-750, Nov. 3, 1966, 80 Stat. 1216, as amended, which was classified generally to chapter

30 (§1201 et seq.) of this title, prior to repeal by Pub. L. 105-220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (b)(1), is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§9201 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105-332 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “The authority to take actions under paragraph (1) shall apply only for the 1-year period beginning on August 7, 1998.”

Subsec. (d)(1). Pub. L. 105-277, §101(f) [title VIII, §401(19)(A)], substituted “subsection (c)” for “subsection (b)”.

Subsec. (d)(2). Pub. L. 105-277, §101(f) [title VIII, §401(19)(B)], inserted “planning authorized under” after “carry out” in two places and substituted “the planning purposes” for “the purposes”.

CHAPTER 74—TROOPS-TO-TEACHERS PROGRAM

§§ 9301 to 9309. Repealed. Pub. L. 107-110, title X, §1011(6), Jan. 8, 2002, 115 Stat. 1986

Section 9301, Pub. L. 106-65, div. A, title XVII, §1701, Oct. 5, 1999, 113 Stat. 817, set forth short title of the Troops-to-Teachers Program Act of 1999 and defined terms. See section 6671 of this title.

Section 9302, Pub. L. 106-65, div. A, title XVII, §1702, Oct. 5, 1999, 113 Stat. 818, authorized program. See section 6672 of this title.

Section 9303, Pub. L. 106-65, div. A, title XVII, §1703, Oct. 5, 1999, 113 Stat. 818, related to eligibility to participate in program. See section 6673 of this title.

Section 9304, Pub. L. 106-65, div. A, title XVII, §1704, Oct. 5, 1999, 113 Stat. 819, related to selection of participants. See section 6673 of this title.

Section 9305, Pub. L. 106-65, div. A, title XVII, §1705, Oct. 5, 1999, 113 Stat. 821, related to stipend and bonus for participants. See section 6674 of this title.

Section 9306, Pub. L. 106-65, div. A, title XVII, §1706, Oct. 5, 1999, 113 Stat. 822, related to participation by States. See section 6675 of this title.

Section 9307, Pub. L. 106-65, div. A, title XVII, §1707, Oct. 5, 1999, 113 Stat. 823, related to termination of original program and transfer of functions.

Section 9308, Pub. L. 106-65, div. A, title XVII, §1708, Oct. 5, 1999, 113 Stat. 823, set forth reporting requirements. See section 6677 of this title.

Section 9309, Pub. L. 106-65, div. A, title XVII, §1709, Oct. 5, 1999, 113 Stat. 824, related to funds for fiscal year 2000.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

CHAPTER 75—EARLY LEARNING OPPORTUNITIES

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